File No. 100/46-Poll(I)

Collection No.

1946.

Government of India
Home Department,
Political (I) Section

Pros. Serial Nos.

Subject.

Relationship between the India Office and the Government of India during the Interim Period.

Previous References.

207/42-Poll(I)

Later References.

1/10

S. 97 (Unbleached)
MGIPC—82—1067 (S&P) MFP (6862/A/M-661) 25-11-44—30,00,000.

7 100/46-Poll (I)

D.O.No.C1/MOG-1720.
Government of India,
Secretariat of the Executive Council.

New Delhi, the 1st July 1946.

My dear Porter,

I enclose herewith copy of a record note of the discussion at the joint informal meeting between the India Office representatives and the members of the M.O.G. Committee held on the 26th June 1946. I shall be glad if you will kindly have the various points referred to in paragraph 8 examined in your Department and let the Council Secretariat have your suggestions or comments at a very early date - if possible, within a month.

Yours sincerely,

Sd/- (H.M.Patel).

A.E.Porter, Esquire, CIE., ICS.

IA

Secret

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Record of an informal discussion ~~between India Office~~ representatives and the M.O.G.Committee held on the 26th June 1946 at which the following were present:-

Sir William Croft.
Mr. E.W.R.Lumby.
Sir Eric Coates.
Sir George Spence.
Sir N.R.Pillai.
Mr. A.E.Porter.
Mr. V. Narahari Rao.
Mr. A.D.F.Dundas.
Mr. H.V.R.Iengar.
Mr. Mohd. Ali.
Mr. H.M.Patel.
Major G.G.Bewoor.

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1. Sir William Croft said that it was necessary to consider the relationship between the India Office and the Government of India during the interim period when the existing Government of India Act would still be operative. An assurance had been given to the major political parties in India that H.M.G. will deal with the interim government with due regard to the fact that it will be a representative Government and will take every care to avoid undue interference in the day to day administration. It was necessary, therefore, to consider what changes were necessary in existing practices to ensure compliance with this assurance.

2. During the war, the India Office had covered a much wider field of work arising from India's war effort than was the case before the war. That extension of activity was already halted, and the scope of the work would soon be narrowed down to its pre-war limits or even further.

3. It is a fact that the Secretary of State has in recent years hardly ever issued anything in the nature of a direct order to the Government of India, and the Interim government would be surprised at the extent of freedom from Whitehall control which was enjoyed by the Govt. of India. In foreign affairs, for example, India's relations with the U.N.O. were exactly similar to those of any other country and the policy of India's representatives was not in any way directed by the India Office. Then again, in the matter of financial control, the Secretary of State now has virtually no say in the policy of the Indian budget. There was a time when the budget proposals used to be gone through by the India Office very critically, and effective pressure was exercised for their modification. These two illustrations show the change that has taken place already in the relationship between the Secretary of State and the Government of India.

4. During the last few years the India Office's chief functions have been to exert itself in pressing India's case with other Departments of His Majesty's Government and to act as a channel for communicating H.M.G.'s decisions to India. It can be maintained that India Office has in many a matter secured for India a better deal than an agency under the control of the Government of India could have done. Naturally, however, sentiment in India would desire that its own High Commissioner should do this agency work even though he may not do it as well as the India Office. This process of transfer of work to the High Commissioner is already taking place. A good many duties of the India Office have already been transferred to the High Commissioner and more are likely to follow.

5. The question of the Secretary of State's services presents difficulties. As the Secretary of State is responsible

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for them under the Act, he will have to continue to carry responsibility for them whether the new Government likes it or not. At the same time, there was a great volume of correspondence that now took place on matters relating to the Services which was very largely of a routine nature and could be avoided. He understood that the rules relating to this matter were now under examination, but this was clearly one of the questions which ought to be taken in hand at once. Similarly, in the matter of financial references the Secretary of State will have to continue to concern himself with matters relating to Governor-General's and Governors' allowances etc., but there were other references which could perhaps be eliminated.

6. Then there was the question of the channels of communication. He was not certain if the P.& P.method should be relied upon too much. It had its proper uses. But it was necessary to avoid creating any impression in the mind of a Minister that anything was being kept back from him.

7. Finally, there was the large field relating to information pure and simple. This it will be necessary to continue if the Secretary of State is to perform several of his statutory responsibilities. Besides, the more information he received as a matter of routine the less likely he was to make special demands which might cause friction. Since the passing of the Act of 1935 Parliamentary Questions relating to provincial administration were in most cases ruled out of order, except when a Province was under Sec.93. It may be possible to induce Parliament to exercise restraint in asking questions regarding the new Government's activities.

8. Subsequent discussion showed general agreement on the point that the effect of the assurance given to the major political parties, and of the importance of keeping a representative government in power during the interim period, would in practice inevitably be to make it impossible for the Secretary of State to compel the interim government to do what it did not wish to do. It followed, therefore, that it would be advisable to take steps immediately to revise the present procedure so that the necessity for (1) the Secretary of State to ask for information from the Government of India or for the latter to furnish it and (2) the Secretary of State's sanction or approval to be obtained, is reduced to the minimum. It was suggested that the following points should be taken up urgently for examination from this point of view.

(1) At present the Secretary of State's specific sanction is required in a number of relatively minor matters presented in his Despatch No.1 of 1939, and corresponding orders on the military side. These orders should be reviewed and the field of delegation broadened to the maximum possible extent.

(2) The Secretary of State's formal approval is necessary in a variety of matters, e.g. budget proposals. If even in so important a matter as the budget proposals Secretary of State's approval is now nominal, is it necessary to require it in other matters of lesser importance?

(3) A review of the Fundamental Rules, the Civil Service Regulations and any other regulations requiring a reference to the Secretary of State should be undertaken with a view to eliminating references of a routine and relatively unimportant nature.

(4) It was mentioned incidentally that the India Office had sometimes asked to be kept informed of discussions between the Government of India and its representatives abroad, the particular instance given being the request for telegrams exchanged between the Government of India and Mr. Saxena on India's claim for reparations in Japan being repeated to the Secretary of State. Should such a practice continue?

(5) In regard to economic and commercial affairs references should ordinarily not be necessary to the Secretary of State. In fact, there were still a few relics of the control exercised by the Secretary of State over the Government of India in trade matters during the war.

(6) Form of correspondence. During the war there was a great increase in P.& P. correspondence at all levels. This ought to cease altogether. Even where it is innocuous, the Minister in charge would quite understandably be made suspicious. Similarly, there was a very great increase in the volume of direct correspondence between "ARMINDIA" and "TROOPERS", i.e. G.H.Q. in India and the War Office. The necessity for continuing this direct correspondence has ceased. This channel ought to be restricted to purely technical matters as in the pre-war days. It is understood that action has already been taken in this direction by the War Department.

It had recently been agreed between the India Office and the Government of India that in certain cases Government of India telegrams should end with the words "Viceroy has seen" and that in analogous cases India Office telegrams should end with the words "Viceroy should see". This practice, which had proved an irritant to Members of Council, should cease. Sir Eric Coates undertook to take up this matter with P.S.V.

(7) The Secretary of State should voluntarily restrict his field of control and prepare a list of subjects in respect of which he would desire information from the Government of India. It was realised that this may make it difficult for the Secretary of State to answer questions in Parliament. One suggestion was that he could explain in the House that although the position under the relevant statutes was not altered, in practice owing to the assurances given by the Cabinet Delegation and the Viceroy, it would no longer be desirable or possible for him to call for such information from the Government of India.

(8) It was desirable that the High Commissioner should take over as quickly as possible all agency functions now performed by the India Office including those on behalf of the armed forces, whether concerning personnel or stores. It was explained that the India Office had agreed last April to take action on these lines and were now examining exactly what functions were involved. (A specific suggestion advanced was that a solicitor should be added to the staff of the High Commissioner's office so that he could deal with the Privy Council cases at present handled by the India Office).

(9) The question of security matters was being examined by the Home Department.

(10) It was pointed out that cases had occurred where information transmitted by the Government of India to the India Office with the intention that it should not be passed on had in fact been communicated to other Departments of H.M.G.,

e.g.....

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e.g. the Board of Trade, to the detriment of India's interests. It was suggested that the remedy for this was that the Govt. of India should not give the India Office so much information and thus avoid putting them in an embarrassing position vis-a-vis other Departments.

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Examine in establsihments and other sections and put up proposals and comments by 15-7-1946.

A.E. Porter.
2-7-1946

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Sections concerned may see and be asked kindly to send their proposals and comments to the Public section by the 13th July positively.

* * * *

A.V. Raman.
8-7-1946

Political(I)

Please see para 8 of the minutes of the meeting of the M.O.G. Committee at pages 3-4 ante. Poll(I) section is concerned with item (9) in so far as it relates to internal security.

2. The Secretary of State is consulted before undertaking any legislation to provide for emergency powers to put down any subversive or revolutionary movements or activities. This is being done with reference to rule 27(f) of the Rules of Business which provides that proposals for legislation providing for the punishment of offences by courts not constituted under the Code of Criminal Procedure or conferring on the executive powers of interference with the personal liberty of the subject shall be reported to the Secretary of State and the bill relating to it shall not be introduced until the Secretary of State has had an opportunity of communicating with the Government of India on the subject. The present proposal is that the existing procedure should be revised wherever possible so that the no. of cases where Secretary of State's approval or sanction is sought is reduced to the minimum. The question for consideration is whether the legislation for emergency powers for internal security is one where reference to the Secretary of State may be done away with and the matter may be left entirely to the discretion of the Interim Government. If it is decided that the Secretary of State need not be consulted it would be necessary to amend the

Rules of Business.

3. There appear to be no other matters in Poll(I) in which it has been specifically laid down that we should make a ~~necessary to refer any~~ report to the Secretary of State or obtain his sanction or approval, but under S.314 the GG in C as well as the GG. are under the general control of the S/S who is consulted in all important matters of policy; eg. we consulted him about the policy towards civilian collaborators.

DN 9.7.46.

4. The question of "Internal Security Schemes" is being dealt with on Dep's file V/5/45-17-S.

I think I will write a reference as I have a can have be discontinued

KB 9/7/46

Sept.

12.7.

These papers may now be returned to the Pol(I) Sec. with a copy of the note sent to the Council Secrett. in reply to Mr. Patil's d.o. dated 18th July 1946.

Appl

BMJS 1.8.46 1/8/46

Pol(I) Sec.

KM 1/8

DS(I) to see 1/8

DN 1/8

Will Pub (Sec) please say whether they orders have issued or when they are likely to issue on the matter.

Pub Sec

DN 11.1.47.

11/1/47

This question is being considered by the Cabinet Secrett and no orders in the matter have as yet been issued in the Pub. Sec. We have no information as to when these orders are likely to issue

7 BMJS 11.1.47 11/1/47

would Cabinet Secretariat

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let us know when orders may be expected?

1418
13/1/47
DSAO

G. V. Bedekar
Dy. Secy:
Telephone No. 2938

Cab Secrt U/O (magnl :M)
H.D. Y. F 100/46 Pol(I) dt (14.1.47

Returned by Cab Secrt No orders are in contemplation

2.2.47

Public Rs see Rems B(5).

Rem MS 3/2

DWS see 4/2/47
B(5)

Seen while Sec Heading opinion note has been placed in the relevant file no 393/46 Public.
BMJS
5/2/47
5/2/47

Pol(I)

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Home Department.

The constitutional position in regard to the control of Secretary of State over the subjects assigned to Home Department as follows:-

(1) In respect of service matters the Secretary of State ercises certain powers of sanction as laid down in Part X of the ernment of India Act of 1935. It is considered that in view of likelihood of the early termination of the contracts of the retary of State's Services and of the fact that under the Act or Statutory Rules the sanction of the Secretary of State is required several matters, it would not be possible to effect any wholesale nges while a mere tinkering with the rules and practice would not oduce any material results. Home Department, therefore, suggest at the Secretary of State's control in regard to service matters y be left as it is subject to relaxation in the following financial atters:-

There are some rules which concern both the Home and Finance partments, financial implications being involved. On examination these rules it has been decided that the powers of the Secretary of tate under Fundamental Rules 50(2), 51(1), (2) and 69 and under the avelling allowance rules could be delegated to the Government of ndia. This view may be communicated to the Finance Department for necessary action.

(2) In regard to other matters, during the period of transition the Secretary of State has, under Section 314 of the Government India Act, 1935, powers of general control over the entire Central st. It is largely for the Secretary of State to decide to what tent he would refrain from exercising this general control, but Home epartment put forward the following suggestions for consideration:-

(i) In regard to questions affecting the admission, movements nd expulsion of foreigners it should not be necessary forthe Government India to obtain Secretary of State's sanction on any matter whatsoever the High Commissioner for India instead of the IndianOffice could as the channel of correspondence between the Government of India nd the Foreign Office in respect of grant of visas to foreigners

P.T.O.

including missionaries coming to India and of the circulation of particulars of foreigners deported from India to Consular Officers abroad.

(ii) On the question of repatriation of enemy subjects at present under detention, negotiations for allotment of shipping have hitherto been conducted through the India Office but in view of the possibility of shipping being made available in the near future and of the administrative difficulty of making a change at this late stage it would be unwise to give up the agency of the India Office and transfer it to the High Commissioner.

(iii) In respect of enemy foreigners leaving India for the United Kingdom Home Department correspond with the India Office on the questions of visas for the United Kingdom. This correspondence cannot for obvious reasons be avoided.

(3) In other matters concerning the Home Department the Secretary of State has statutory obligations either to consult the Government of India or vice versa and correspondence and reference in that connection cannot for the present be avoided.

Sd/- (Ahmed Ali)
29.7.1946.
Deputy Secretary.

PL. 31.7.46.

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